Atty. Dkt. No. MEI003 P300

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit	:	2163
Examiner	:	Merilyn P. Nguyen
Appellant	:	Michael Meiresonne
Serial No.	:	09/938,163
Filed	:	August 23, 2001
Confirmation No.	:	1287
For	:	SUPPLIER IDENTIFICATION AND LOCATOR SYSTEM AND METHOD

Dear Sir:

REPLY BRIEF (37 C.F.R. § 41.41)

Pursuant to 37 C.F.R. § 41.41, Applicant hereby submits this Reply brief in reply to the Examiner's answer mailed August 17, 2009, and in furtherance of the Notice of Appeal, which was filed on January 30, 2009. Pursuant to 37 C.F.R. § 41.47(b), Applicant is contemporaneously filing a *Request for Oral Hearing* together with the required fee.

Although Applicant believes that no fee is due, any fees required to submit this Reply Brief and/or for any required petition for extension of time for filing this brief are authorized to be charged to Deposit Account No. 16-2463.

A. THE EXAMINER HAS NO PRIOR ART REFERENCE THAT SHOWS "A PORTION OF THE DIRECTORY WEB SITE ADDRESS DESCRIBES THE CLASS OF GOODS OR SERVICES [FOR THE DIRECTORY WEB SITE]."

Every independent claim includes the limitation "wherein a portion of the directory Web site address describes the class of goods or services [for the directory Web site]."

The Examiner admits that "FIG. 18 [of the '192 patent to Rebane] does not show the directory Web site address." Ex. Ans. p. 3. Yet, the Examiner concludes that "one having

ordinary [sic] in the art would have been recognized that a portion of the directory Web site address describing the PDAs would be shown on the directory address. . . ." *Id.* (emphasis added); see also *id.* p. 11 (where the Examiner seems to assume that all Web site addresses are descriptive of the contents). In an attempt to support this bare conclusion, the Examiner refers to a printout of a current page from the '192 patent's Web site (bizrate.com) that uses the acronym "PDA." The Examiner uses the printout as "an extra reference" "but not . . . as a prior art." *Id.* p. 12.

The Examiner's conclusion is in error, for several reasons. First, there is no rule that has ever required an address, let alone a domain name, to be descriptive, contrary to the Examiner's conclusion that they "would be" as a matter of course. As explained in Applicant's Appeal Brief (pages 23-24), a domain name can be virtually anything—descriptive it need not be. Thus, the Examiner's conclusion that the address, let alone the domain name, for the fictitious Web page of FIG. 18 of the '192 patent "would" have necessarily used a term that is descriptive of the contents of the Web page (like "PDA") is incorrect.

Second, the Examiner's reliance on the domain name used for a current Web page is logically inapposite. The Examiner relies on the name of a Web page as it exists nearly a decade after Applicant filed the current application. What bizrate.com does nearly a decade after Applicant filed the present application does not logically reveal what conclusions an ordinary skilled artisan would have drawn after reviewing FIG. 18 of the '192 patent in 2001. In other words, the Examiner's logic is: Company X uses a descriptive name for Web site Z in 2009 and, therefore, a skilled artisan, in 2001 (years earlier), would have assumed that all Web sites use a descriptive

name. Yet, barring time travel, the skilled artisan would not have knowledge, in 2001, of how things were done in 2009. The Examiner's logic is faulty.

Third, even if the Examiner's reliance on a current Web page is logical, the reliance still does not prove that a skilled artisan would have assumed that the address for the fictitious Web page presented in FIG. 18 "would" necessarily provide a description of the Web page's content. For example, Applicant directs the Board's attention to the Web page http://www.imdb.com/title/tt0088763/. A user cannot tell from the characters used in the Web page address what the contents of the Web page are, because no descriptive words are used therein. (The Web page is the Internet Movie Database's Web page for the movie *Back to the Future*). Not every Web page uses a name that describes the Web page's subject matter. Ergo, the Examiner's reliance on the current bizrate.com Web page is misplaced.

In sum, the Examiner lacks prior art to prove the assertion, and evidence of what one company does today does not fill the logical gap. The rejection of all claims must be overruled.

B. REBANE DOES NOT SHOW THAT, UPON ACTIVATION OF THE SUPPLIER LINK, "THE DIRECTORY WEB SITE REMAINS DISPLAYED IN A SEPARATE WINDOW."

Independent claim 11 includes the limitation that "the user activating the supplier link thereby launching a supplier internet browser window and displaying the supplier's Web site or supplier information in the supplier internet browser window and wherein the directory Web site remains displayed in a separate window . . . ." Claims 12 through 18 all depend from claim 11.

The Examiner has rejected claim 11, in part, on the theory that the '192 patent to "Rebane further discloses activate [*sic*] the supplier link thereby launching a first supplier internet browser

window . . . wherein the directory Web site remains displayed on a separate window. . . ." Ex. Ans. pp. 4-5. In support, the Examiner relies on FIG. 20 of the '192 patent and on evidence of how bizrate.com's current Web site works. It appears that the Examiner believes that every time a user accesses a different domain, a different browser window is required to be opened. See *id.* p. 14 ("Figure 20 clearly show separate browser window as eCOST.com shows different domain thus different browser window") (emphasis added).

The Examiner's rejection remains without merit, for several reasons. First, contrary to the Examiner's assertion, FIG. 20 of the '192 patent simply does not show the preceding directory Web site remaining displayed in a separate window. Nor does the text of the '192 patent say so. The Examiner cannot rely on the '192 patent to support the conclusion.

Second, for the reasons set forth above, the Examiner cannot rely on how the current bizrate.com Web site operates as evidence of what a skilled artisan would think upon reading the '192 patent a decade ago.

Third, there is no evidence that every time a user directs a browser to access a new domain name, a different browser window is automatically opened. In fact, the present application describes this aspect as an improvement to the state of the art, in that the need to press the "back" button on the browser is eliminated. In addition, the Application explains:

> Moreover, since the supplier's Web site appears within a new Internet browser window, closing the new Internet browser window that displays the supplier's site automatically returns the user to the Internet browser window that displays the directory Web site. This feature is unlike conventional search engines where, if the user closes the browser containing the supplier's Web site where the supplier's Web site is being displayed, one must reopen and return to the search engine.

Application at p. 8, lines 8-30. The rejection of claims 11 through 18 must be overruled.

C. THE LIMITATION "THE DIRECTORY WEB SITE ADDRESS INCLUDES A DOMAIN NAME PORTION WHEREIN THE DOMAIN NAME PORTION OF THE SELECTED DIRECTORY WEB SITE DEFINES THE SELECTED CLASS OF GOODS OR SERVICES" HAS THE FUNCTION OF INCREASING WEB SITE RANKING.

Claims 2 and 20 include the limitation "the directory Web site address includes a domain name portion wherein the domain name portion of the selected directory Web site defines the selected class of goods or services." Claims 3 and 5 depend from claim 2.

The Examiner acknowledges that the prior art does not teach this limitation, yet dismisses the limitation as irrelevant, because it is "nonfunctional." Ex. Ans. pp. 6, 12.

The Examiner is incorrect. One of the points of the present application is to help a product directory Web site become highly ranked when a user enters a product search term into a search engine's query. Application at p. 6, lines 5-7. As Applicant has discovered, a product directory Web site can become highly ranked by, among other things, using a word that describes a product as part of the domain name for the Web site. As Applicant explains:

> In doing so, a user searching for companies offering particular goods and services would insert a search strategy or term, typically a description of the type of good or service the user is searching for, such as in this example, widgets. In this example, a user searching for a widget would insert the descriptive term widgets into a conventional search engine, such as, http://www.yahoo.com or http://www.excite.com and the search results would, more than likely, reveal a directory constructed according to the present invention as one of the top ranked sites and provide a link to the directory, bypassing the home page.
>
> A directory, according to the present invention, achieves this high ranking by advantageously employing related elements in each of the areas where a typical search engine locates relevant information. For example, as shown in **Fig. 2**, if a user was searching for widgets, a widgets directory, constructed according to the

> present invention, employs **a descriptive domain name**, such as, http://www.widgets.com 12. The present invention also employs the descriptive term or substantially similar descriptive term in the header 14 as well as the first paragraph of the text 16. The directory website also provides links to the Web sites of various suppliers who offer goods and services of the type described by the directory as well as a description of the supplier, including address and phone number and typically a written description about the supplier and/or the supplier's product(s) 20a , 20b, 20c, etc.

Application, at p. 5, line 27 through p. 6, line 14 (emphasis added). Applicant has discovered that the use of a descriptive domain name increases the ranking of the Web site when a user uses the descriptive term as a search query. Clearly, if the user uses the search term "widgets," then the search engine will rank a Web site with a domain name that includes the descriptive term "widgets" (e.g., widgets.com) higher than a Web site with a domain name that does not (e.g., redcoaster.com). The use of a descriptive term that anticipates the user's search term will result in a more highly ranked Web site.

Moreover, as explained in Applicant's initial brief, the Examiner concludes incorrectly that the claimed limitation does not affect management of the web page. The use of a different domain name for each predicted descriptive term requires the purchase of a new domain name and the subsequent management thereof. Thus, the Examiner is incorrect and, thus, the rejection of claims 2 through 5 and 20 must be reversed.

D. FENTON DOES NOT DISCLOSE A "ROLLOVER WINDOW [THAT] DOES NOT OBSCURE OTHER CONTENT ON THE DIRECTORY WEB SITE."

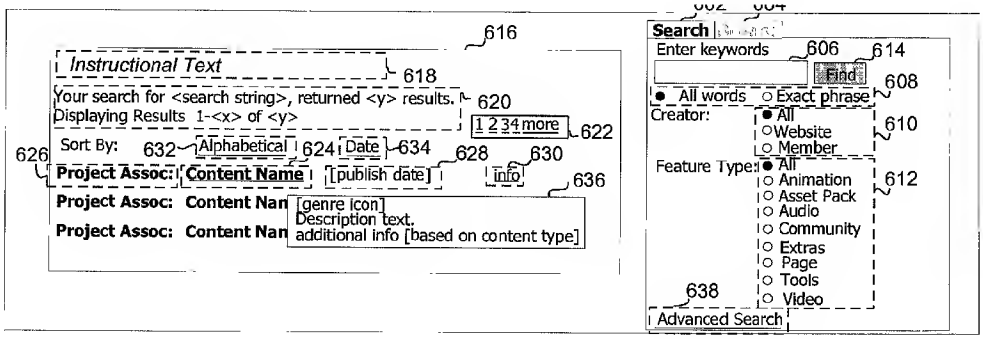
Claims 4 and 10 include the limitation "wherein the rollover window does not obscure other content on the directory Web site . . . ." Claims 6 and 7 depend from claim 4.

The Examiner has rejected claim 4 in part on FIG. 6 of the '151 publication by Fenton *et al*. The Examiner reasons:

> The rollover box of Fenton at Figure 6, reference 636 is displayed when a user rolls over with the mouse cursor one of the listed content items, thus the rollover window/box of Fenton does not obscure other content on the website because it's a floating window and would disappear when move the mouse away.

Ex. Ans. pp. 6-7 (emphasis added); accord *id*. pp. 12-13.

The Examiner's conclusion is wrong. The limitation requires the rollover window to "not obscure other content on the directory Web site." Contrarily, the rollover window (element 636) of FIG. 6 of the '151 publication by Fenton *et al*. does obscure content on the Web site. That figure is depicted below:



As the figure reveals, the rollover window 636 plainly obscures other content (such as, content name, publish date, info). Therefore, FIG. 6 of the '151 publication does not show the required non-obstruction limitation of claim 4.

The Examiner's reasoning is temporally illogical. The Examiner reasons that the rollover window 636 does not "obscure other content on the directory Web site" because the rollover window 636 disappears when the user moves the cursor away. That is essentially arguing that a

Web site *without* a rollover window teaches a rollover window that does not obstruct other information. The only time a rollover window 636 is present, it obstructs other information. The Examiner focuses on what happens when there is no rollover window, whereas claim 4 requires the focus to be on a rollover window and whether it obstructs other information. And, clearly, when rollover window 636 is present, the rollover window 636 obscures other information. The basis for the Examiner's rejection makes no sense. As such, the rejection of claims 4, 6, 7, and 10 must be reversed.

E. REBANE DOES NOT SHOW "ACTIVATING THE SUPPLIER LINK . . . THEREBY LAUNCHING A SEPARATE INTERNET WINDOW BROWSER."

Claims 8 and 19 require the step of "activating the supplier link for a supplier of a class of goods or services thereby launching a separate window . . . ." Claim 20 depends from claim 19.

The Examiner contends that the '192 patent to Rebane shows this limitation and directs our attention to Fig. 20. Ex. Ans. p. 8. The Examiner's contention is incorrect.

The '192 patent, FIG. 20, does not show a separate window. It shows one window. In contrast, claims 8, 19, and 20 require the opening of a separate window, and FIG. 9 of the present application appropriately shows a separate window.

FIG. 20

FIG. 20 showing one window

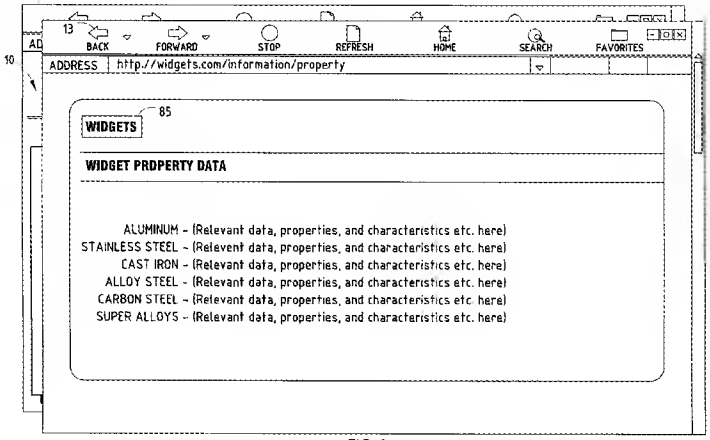


FIG. 9

FIG. 9 showing separate window

The '192 patent simply does not disclose the claim limitation of claims 8 and 19-20.

In an attempt to overcome the deficiency in the '192 patent, the Examiner again relies on evidence on how bizrate.com operates now. As explained above, the Examiner's reliance on how a Web site operates nearly a decade after the present application was filed is illogical and improper. The rejection to claims 8, 19, and 20 must be reversed.

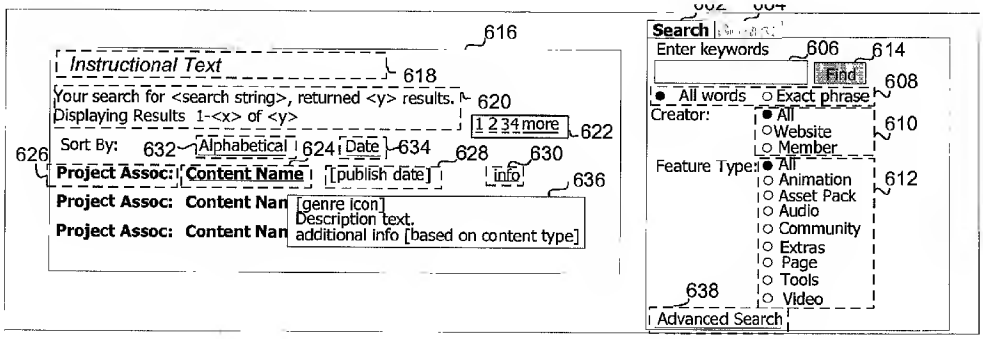
F. FENTON DOES NOT DISCLOSE THAT "**THE** ROLLOVER WINDOW DISPLAYS INFORMATION ABOUT A SECOND PRE-SELECTED SUPPLIER WHEN A USER PRE-SELECTS A SECOND SUPPLIER LINK."

Claim 10 includes the limitation that "the rollover window displays information about a second pre-selected supplier when a user pre-selects a second supplier link." Claim 25 includes an almost exactly worded limitation. Claims 27, 29, and 34 depend from claim 25.

The Examiner has rejected claim 10, concluding that the '151 publication by Fenton *et al.* discloses such. Specifically, the Examiner contends that paragraph [0109] teaches that "the rolls

[*sic*] over box would display another description about other content item when user rolls over another one of the listed content items." Ex. Ans. p. 13.

The Examiner is incorrect—Fenton *et al.* does not disclose that "the rollover window" displays information about a second supplier but, rather, that a second, new, rollover window displays information about a second supplier. Fenton *et al.* disclose that "when a user rolls over (for example, with the mouse cursor) one of the listed content items, the user may be presented with rollover display box 636." ¶ [0090]. As FIG. 6 suggests, the rollover display box 636 appears to become visible adjacent to where the mouse cursor is.



The clear suggestion is that, as the user moves the mouse cursor from content item to content item, a new rollover display box 636 appears so as to display the content particular to the content item over which the cursor lies. In other words, a new rollover window appears as the user moves the mouse cursor from content item to content item—"the" rollover window that appeared for one content item is not the same rollover window that appears for a second content item. In contrast, claim 10 requires that "the" rollover window that presented information about a first supplier be "the" rollover window that presents information about a second supplier; "the" rollover window

stays constantly located. The rollover display box 636 of Fenton *et al.* does not do that. Consequently, the Examiner's rejection is misplaced.

The Examiner's own arguments support Applicant's interpretation. In connection with the "obstruction" limitation, the Examiner states again and again that the rollover window "disappears" as the cursor is moved away from a particular content item and therefore does not obstruct content. Ex. Ans. pp. 6-7, 8, 9, 12. Similarly, in connection with the "second rollover window" limitation of claim 30 (and others), the Examiner relies on the same disclosure of Fenton *et al.* *Id.* p. 9. In other words, the Examiner repeatedly argues that the rollover window of Fenton *et al.* constitutes a new, second rollover window, whenever the user moves the cursor over a new content link. Therefore, the Examiner acknowledges that the same rollover window is not displaying content for multiple links, as claims 10 and 25 requires. The Examiner cannot have it both ways. The rejections of claims 10, 25, 27, 29, and 34 must be reversed.

G. REBANE DOES NOT DISCLOSE "EACH DIRECTORY WEB SITE CONTAINS AT LEAST ONE LINK TO AT LEAST ONE OTHER DIRECTORY WEB SITE."

Claim 32 includes the limitation that "each directory Web site contains at least one link to at least one other directory Web site." Claim 54 includes a similarly worded limitation.

The Examiner contends that the '192 patent to Rebane, FIGS. 18 and 20, discloses the limitation set forth in claim 32. The Examiner is incorrect.

FIGS. 18 and 20 of the '192 patent to Rebane do not show a directory Web site with a link to "at least one other directory Web site." First, FIG. 20 is not a directory Web site but, rather, a

supplier Web site (ecost.com) according to the Examiner's interpretation of the reference's FIGS. 18 and 20. '192 patent, column 33, lines 55-60 ("merchant's website"). Claim 32 requires that the "directory Web site" contain the link—not the "supplier's Web site," which is a different Web site. See claim 24 (from which claim 32 depends). Second, assuming *arguendo* that FIG. 20 is a directory Web site (for say PDAs), there is no other identified link to another directory Web site (for say Mac notebooks, as identified in FIG. 17). The Examiner offers no explanation of where the link may be. In short, Rebane, FIGS. 18 and 20, shows no such "link to at least one other directory Web site" and, thus, the rejection was in error. As such, since the limitation of claims 32 and 54 is missing, the rejection of claims 32 and 54 must be reversed.

H. PERKES DOES NOT DISCLOSE THE USE OF "AT LEAST ONE AT LEAST PARTIALLY DESCRIPTIVE METATAG."

Claims 7 and 18 include the limitation that "selected directory Web site comprises at least one at least partially descriptive metatag." Claims 19, 35, and 47 include a similarly worded limitation. Claim 20 depends from claim 19. Claim 48 depends from 47.

The Examiner contends that the '601 publication by Perkes *et al.*, at ¶ [0042], teaches the use of a descriptive metatag "to cover all possible related searches and increase the ranking achieved." Ex. Ans. p. 11. The Examiner is incorrect.

The cited paragraph of the '601 publication by Perkes *et al.* does not teach the use of a descriptive metatag to increase search result rankings. Even assuming arguendo that the '601 publication teaches that a Web site can have a descriptive metatag, the '601 publication, at

¶ [0042], teaches only that the metatags could be used to develop and refine a consumer's profile (e.g., listening and viewing habits). The '601 publication has nothing to do with Web site rankings, as the Examiner concludes. Thus, the rejection was misplaced. The rejection to claims 7, 18-20, 35, 47, and 48 must be reversed.

* * *

For these reasons, Applicant respectfully contends that the Examiner's reasons for rejection are still incorrect and, thus, the claims ought to be allowed.

Respectfully submitted,

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By: PRICE, HENEVELD, COOPER, DEWITT & LITTON, LLP

10/16/2009
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